682 Hambly and Childs seem to suggest that any case might be referred to the
527 chief for his decision: "Even a slave used to have rights of appeal to the king if he were starved or beaten without cause".(1) Neither describes the composition of the courts or the mechanism of appeal.

Legal procedure

695 Childs writes rather obscurely "Cases might be settled by ordeal or by decision of the king, and there was therefore room for appeal and retrial".(2)

One kind of ordeal, the cabulanga or poison ordeal, is described by Hambly:(3) It was used (only?) when the accused was thought to have committed murder by poison or sorcery. (If weapons were used, the accuser, usually a relative of the deceased, had the right to kill the murderer with the same kind of weapon.) If a woman were accused in this way, her son or brother would take her place in the poison ordeal.

The complainant in a suit is called *ombile*, the defendant *ovitue*, and the witness *ovangi*. Cashman states that no evidence is ever ruled out of court, and that each witness is required to give a complete account of all his dealings with the persons concerned in the case, so that the court may know on which side he is likely to be prejudiced.(4) Hambly(5) adds that formerly a witness had to make recompense to the man about whom he had told a lie, and probably received a beating as well. According to Cashman an Umbundu court may find that both parties are to blame in a case, and may fine or penalise both according to the degree of guilt. "If the chief is not satisfied, he simply gets up and leaves the court circle. This indicates that the evidence has not been satisfactory and more must be presented."(6)

● 672 In the absence of the delinquent, responsibility for crime was formerly transferred to a relative. If a thief escaped, responsibility would rest with a brother, a father, or a son. The mother's brother was often held responsible for the misdeeds of his sister's children, and would be expected to pay their debts.(7)

Punishments

685 A thief was punished by a beating and a fine paid to the persons from whom he had stolen.(8) An habitual thief was sold into slavery. He might be redeemed, but only if the authorities considered his reformation complete.(9) Murder was punishable by death, although this penalty might
682 be avoided by a heavy fine paid to the relatives, usually the mother,
684 mother's brother, or sister's son of the deceased. If the victim were of the royal family, the murderer might be put to death after the payment of the fine. The punishment for women murderers was the same as for men.(10) In adultery the woman was not punished, but a man was punished in the same way as a murderer, i.e. by death or a heavy fine. (Hambly gives the fine

(1) Hambly, op.cit., p.291.
(2) 1949, p.21.
(3) op.cit., p.293.
(4) 1944, pp.38-9.
(5) op.cit., p.291.
(6) 1944, p.39.
(7) Hambly, op.cit., p.291.
(8) Ibid., p.292.
(9) Cashman, 1944, p.39.
(10) Hambly, op.cit., pp.295-3.

586 When a woman divorces her husband to marry another man, she takes to her home all children under three years of age; other children go to the home of her parents.(1) There is no information concerning the fate of children when the man divorces his wife.

[591] Divorce cases are apparently brought before the court of the village headman only where the return of the marriage payment to the husband is long delayed or in some way unsatisfactory.(2)

LAND TENURE

923 There is virtually no information on Unbundu land usage. Childs states that land is inherited in the paternal line, i.e. by brother or son. Humbly suggests that "The right to land depends on its use and allotment by a chief (?) at the time of founding a village," and that "Rights seem to have been well defined and there was always enough room for a stranger". The meaning of neither of these statements is very clear.(3)

DOMESTIC SLAVERY

587 [592] Slaves were formerly taken in war, and, until very recently, as a result of a person's inability to pay his debts. In such a case not the debtor, but the debtor's sister's children were taken as slaves by the creditor. If the debt was paid later, the children were set free.(4) Today children instead of being sold into slavery may be expected to work for the creditor to pay off the debts of the mother's brother.(5) Childs writes "Slaves or former slaves have a status within the household or village which to the ordinary observer does not differ from that of the children: they are treated much as the children and they may carry on in all matters social and economic as though they were members of the family". He adds however that when there is a call for labour, the lot falls more often to a slave or a pawn.(6) Humbly, however, notes that formerly the master had rights of punishment including the death sentence, although an ill-treated slave might appeal to the village headman. Slave women were frequently taken as concubines, but were not lent out as prostitutes. A slave woman who married a free man would revert to her master along with her children when her husband died. All children of slaves became slaves of the master, who could dispose of the girls in marriage. If he himself married a slave girl, she would, at his death, become the property of his eldest brother and her children would go with her, although in some instances the woman and children might go to the mother's brother's son.

[727] It seems likely (although it is nowhere stated) that there was a clear distinction between slaves captured in war and slaves taken as a result of a debt; possibly the information quoted above from Humbly refers mainly to war captives.

(1) Humbly, op.cit., pp.192-3. (2) Ibid., p.193.
(3) Humbly, op.cit., p.201. Humbly states here that the system of land distribution is described in a later section of his book, but this section merely refers back to these remarks.
(4) Buxton (1909, p.33) adds that if a father redeemed his children, the maternal uncle lost his right to sell them into slavery.
(5) Humbly, op.cit., p.201. (6) 1949, p.42.

time to the village of the paramount chief. These periods spent away from home continue into adolescence. Not only relatives, but also friends, blood-brothers and vakuacisoko (see below) exchange children in this way.

Later childhood

No definite time marks the transition from early to later childhood, but there are marked differences between the two stages. As soon as the child is physically able, he begins to assume a definite role in the community. Soon after a child gets his permanent teeth, a notch in the form of an inverted V is chipped between the two upper front incisors. Formerly the beginning of the period was marked for the boy by his first trip with a trading caravan; today a boy of this age may begin to work in the fields with his father, or begin to learn a trade, or be sent to school. A girl starts to learn field-work and housework.

Professions

A boy is expected to learn the profession or occupation in which his father or his mother's brother is expert, and after that, should he wish to learn some other side-line profession, he may apprentice himself. All children, both boys and girls, are expected to learn, to cultivate, but that is not counted as a profession. The principal ocipindulo (professions) listed by Childs are: for girls, basket-making, pottery-making, medical practice and divination; for boys, mat-making, wood-working, rope-making, thatching, fishing, apiculture, hunting, smithing, and medical practice and divination. The last three, as has been mentioned above, are "sacred" and entered under special conditions.

"Later childhood, then, is the period of technical training during which it is expected that a large amount of economic responsibility will be assumed. A child begins to own property even before this, and from the beginning of childhood will be accounted legally responsible for his actions. It is recognised, however, that he should not be set tasks beyond the experience or ability of his age and that the full responsibility of adulthood will come only with marriage."(1)

The coming of European commerce, industry, and government has created new types of employment for boys and men, some of which cause a prolonged absence from the village and a loosening or severing of kinship ties. There are no estimates of the number of persons employed by Europeans, or the average length of their absence from home.

ADOLESCENCE(2)

Childs found that the onset of puberty was late among the Ovimbundu, coming between fourteen and sixteen years for girls and between fifteen and seventeen years for boys. Soon after puberty young people generally stop sleeping in the parents' house. The girls congregate in kitchens and each boy builds himself a house, in which he will live through adolescence

(1) Childs, op.cit., p.110.
(2) Based on Childs, op.cit., pp.58-9 and 111-12.

3: Hambly E-8 (1929-1930) 1934 FF13 Mbundu FF13

in return. Even a slave used to have rights of appeal to the king if he were starved and beaten without cause. The king was the prime mover in warfare. The whole legal system is at this time directly under Portuguese administration though the kings and chiefs have minor powers. Ngonga says that complainants who are dissatisfied with the decision of their own chief go to the Fort, meaning of course the Portuguese military post, or office of the Administrador.

There is no doubt that in former days the responsibility for crime and debt was transferred to a relative in the absence of the delinquent. If a thief escaped, responsibility would rest with a brother, a father or a son. The mother's brother was often held to be responsible for the misdeeds and debts of his sister's children. The mother's brother has rights that extend to the sale of his sister's children to pay his debts. For this reason Ngonga says, "If I have done wrong and they cannot catch me it is right that he (mother's brother) should pay for me."

I supposed the case of Ngonga having stolen a cow; he has been caught but escapes. Ngonga said that the man from whom he had stolen the animal would go to his (Ngonga's) mother's brother in order to name the price required for the cow, or any other possession which had been stolen. If the mother's brother thought the price reasonable he would pay. On the contrary, if the price claimed were too high the mother's brother would appeal, first to the village chief, then if necessary to the king.

Ownership of land does not appear to have been a source of dispute. Apparently land was distributed by the chief as explained in dealing with village organization. Rights seem to have been well defined and there was always enough land for a stranger. When a man was going away on a trading journey he might lend his land to another who would agree to cultivate it and take the produce for a year. I was unable to satisfy myself that land is now, or was in time past held to be the property of dead ancestors. The right to land depends on its use and allotment by a chief at the time of founding a village. A man who intended to be absent would make a payment so that he might leave his goods at the house of another. The chief would settle any disputes arising from these arrangements.

The complainant in a suit is called *ombile*, the defendant is *ovilue*. The name for a witness is *usungi*. In the old days a false witness had to make recompense to the man about whom he had told a lie; he would probably have a beating as well. A master was in every way responsible for the actions of a slave. The degree of responsi-

3: Hambly E-5 (1929-1930) 1934 FP13 Mbundu FP13

672 bility of women is mentioned in describing the penalties for adultery and theft.

562 681 The penalties for offences against the king were undoubtedly more severe than those imposed for the same offences against a commoner. Ngonga says that the punishments for crimes against a chief or medicine-man were, and are now, the same as the penalties for offences against any other person. It seems, however, that if the chief were a very powerful man, he could claim penalties which would have been appropriate for offences against a king.

695 A thief was punished by beating, in addition to which he would have to pay a fine to the people from whom he had stolen, but he rarely escaped without the beating. The thief would be beaten just as much for stealing one animal as he would for stealing many. If a woman stole from her neighbor's garden, those who caught her would tie her and take her to her husband, who would pay compensation and then beat her. A child caught stealing would be taken to the maternal uncle or to his own father. If a woman stole from relations she would probably have no punishment other than a beating. Her husband would have to compensate the relations. Stealing honey from hives is an offence that is punished according to the general laws relating to theft.

696 If a man was sentenced to a death penalty, or to a beating, there was an official appointed by the king or by the chief to see the sentence carried out. This representative was called *akuenje wolombe* which means "the servant, or minister, of the court."

682 Ngonga described the penalty for murder saying, "It was a terrible thing they did to the murderer. A tight triangle of wood was fastened on to his neck by a peg and to this a cord was attached so that he was suspended to the roof with his feet barely touching the ground. In some instances his head was placed through a hole in the door of his house while his body was inside the hut. He had very little food or water and people threw things at him. He was kept tied up for a month to see whether he could pay something. Suppose he could not pay, and nobody would pay for him, he was taken outside the village where his head was cut off. If he had many possessions, he said on the first day, 'If you will take this thing off my neck I will pay two oxen and two slaves.' The payment would be made, not to the wife or children of the murdered man, but to the brother of the mother of the murdered man, or to the mother of the murdered man, or to the son of a sister of the victim. If the murderer agreed to make the payment the people kept him tied up until the

3: Hambly E-5 (1929-1930) 1934 FP13 Mbundu FP13

undu, and Ngalangi are said to have had conflicts. In time past, as at the present day, a king reigned over territory which was extensive but definitely delimited for purposes of administration. Encroachment of one king on the rights of taxation and administration of another led to raids and reprisals. Village chiefs collected taxes in the form of agricultural produce and gave these to the king, who personally visited a village from which payments had not been made. A folklore story begins, "The people had not paid taxes so the king came to the village and told them a parable."

A king, if young, accompanied his people on the warpath. There was, however, a permanent leader named *kesongo*, a derivative from *songola* ("to lead"). The declaration of war, likewise the tactics, were discussed by a council of *olosekulu* ("village chiefs") in the *ombala* ("capital") where the king had, and still has, a royal compound. If war had been conducted among sections of the Ovimbundu, the defeated people had to pay taxes and tribute; moreover, their women and cattle were taken. In event of a successful war against the Vachokue there was plundering of cattle and women, but it was not found practicable to exact periodical payments from the enemy.

The subject of warfare is intimately related to that of slavery. There was until very recent times a domestic slavery which followed from the inability of a person to pay his debts. In connection with this reduction of free persons to a condition of slavery there are several points of exceptional interest. The debtor himself is not taken as a slave, neither are his wife or children. The correct procedure is a sale of his sister's children; but more frequently the children themselves are taken by the creditor. "The debtor's sister will say nothing because this is the law of the Ovimbundu." If payment of the debt is made later, the children are set free. Usually the word pawning is used by ethnologists to describe this proceeding.

Further consideration of Ngonga's payment to his mother's brother clarifies the facts of domestic slavery. "I paid for them, I took their place," said my interpreter. The payment for the return of these two children was two oxen. The girl, who was ten years of age when she was taken to pay the debt, was returned to her people when she was a woman with three children. Ngonga's brother was not actually taken from his home. He was made to pay his mother's brother's debt by working for the creditor. In general, these domestic slaves were not ill treated, though their rights were limited. The position of slaves taken from a hostile

A mourning widow must leave her hair loose and undressed, and she has to wear a cloth which conceals her from crown to sole. For three days she is obliged to sleep close to the corpse of her husband with only a stick between them. The stick, which is about the length of the bed, is laid between the widow and the corpse. During this time she has no food, and her wailing is expected to be almost continuous day and night. When the corpse is tied and prepared for burial the widow says farewell to it. Relatives support the corpse and make it advance toward her, while she herself is held in the position of a bound corpse, and is supported by relatives who make her confront the dead body of her husband. The widow does not go to the funeral. 765

Mourning continues after the funeral, with fasting and periodical wailing at three o'clock in the afternoon, and again twelve hours later. At the end of a month of mourning the widow lies for one night in the place where the corpse of her husband lay the night before burial. At the beer-drinking which marks the end of the period of mourning a medicine-man guides the hand of the widow as she dips a ladle into the beer pot and distributes the beverage.

The widow may stay with her mother's brother or she may return to her parents, but she must not become the wife of another man until a year has elapsed. The second husband will make a present to the widow's parents or others who have taken her, but this gift will not be as valuable as if the groom were taking a virgin. 768 587

Tree burial I have not seen, but heard of it near Ngalangi, and it has recently taken place at Cileso. Tree burial is the method for disposing of the corpse of a person who has died in debt. Any one who gives interment to a corpse assumes responsibility for the debts; hence tree burial is the most convenient way of disposal. 766 672

An Ocimbundu from Bailundu said that in that district the child is taken from the womb of a woman who has died pregnant. Food is placed on the lips of the removed foetus so that it will not induce the death of other pregnant women. Near Ngalangi a pregnant woman would be buried with the point of a long stick on her abdomen, and after the grave had been filled a blow would be given to the top of the stick. 766

The foregoing are the principal points of importance in the funeral rites of commoners. Ceremonies connected with the death and burial of medicine-men, kings, chiefs, and hunters require separate consideration. [565]